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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 17, 1998

APPLICATION OF

VIRGINIA ELECTRIC AND POWER
COMPANY

CASE NO. PUE960036

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION

CASE NO. PUE960296

Ex Parte: Investigation of
Electric Utility Industry
Restructuring -- Virginia
Electric and Power Company

ORDER ON PROPOSED STIPULATION

By Order issued on June 8, 1998 (“June 8 Order”), the Commission responded to a motion filed by the Commission’s Staff for consideration of a stipulation and changes in the procedural schedule in this matter. The stipulation, included as an attachment to Staff’s June 8, 1998 Motion, was filed on behalf of the Staff, the Division of Consumer Counsel of the Office of the Attorney General (“Attorney General”), the Virginia Committee for Fair Utility Rates, the Apartment and Office Building Association of Metropolitan Washington (“AOBA”) and Virginia Electric and Power Company (“Virginia Power” or the “Company”) (collectively, “stipulating participants”).

This consolidated case is an outgrowth of: (i) a proceeding commenced by the Commission in September of 1995 in Case No. PUE950089 investigating issues associated with potential restructuring and competition in the electric utility industry; and (ii) the proceeding concerning Virginia Power's 1995 annual informational filing ("AIF") in Case No. PUE960036. By Order issued November 12, 1996, the Commission established Case No. PUE960296 and directed Virginia Power to file certain information, studies and analyses addressing a number of matters, including the reasonableness of the Company's rates, the appropriate disposition of any excess earnings, and its proposed alternative regulatory plan, if any, by March 31, 1997, based on a 1996 calendar year.

On March 24, 1997, Virginia Power made a comprehensive filing that included a proposed alternative regulatory plan ("Plan"). By Order dated April 30, 1997, the Commission provided for notice, established a procedural schedule, and consolidated Case No. PUE960296 with Virginia Power's 1995 AIF proceeding. In December of 1997, Virginia Power filed two motions that would have resulted in the withdrawal of its entire Plan and the withdrawal of certain testimony and exhibits in support of the Plan.¹ After providing the parties an opportunity to respond to the Company's motion, the Commission issued an Order on February 13, 1998, in which it acknowledged that Virginia Power could withdraw its support of the Plan. The Commission, however, also explained that it would continue to consider the reasonableness of the Plan and any amendments or modifications that the Commission may deem necessary to conform the

¹ In the first motion, filed on December 2, 1998, the Company sought permission to amend its application to eliminate its request for approval of "Phase II" of its Plan (the portion of its comprehensive filing relating to its alternative regulatory plan); in its second motion, filed on December 17, 1998, the Company requested permission to withdraw "Phase I" (which featured a five year rate freeze and a write down of certain costs).

Plan to the requirements of the Code of Virginia, regardless of proponent of such amendment or modification.²

Subsequently, the Commission granted several extensions of the filing of rebuttal and surrebuttal testimony on advice that the Staff and certain parties to this proceeding had begun and were continuing discussions that were intended to narrow the issues in this case. As stated, on June 8, 1998, Staff filed a proposed stipulation and a motion requesting consideration of the stipulation at the hearing. Staff stated that the stipulation resolves certain rate issues and, if approved by the Commission, would result in a just and reasonable settlement of those issues. Staff also stated that the settlement would provide for an appropriate refund to Virginia jurisdictional customers and just and reasonable rates on a going-forward basis.

In the June 8, 1998 Order, the Commission suspended the filing dates for rebuttal and surrebuttal testimony and provided parties an opportunity to file any comments on the procedural approach proposed in the motion on or before noon on June 15, 1998.

On June 15, 1998, comments were received in response to the June 8 Order from: the Virginia Independent Power Producers, Inc. (“VIPP”), Energy Consultants, Inc. and Brayden Automation Corporation (“Consultants”), the Southern Environmental Law Center (“SELC”), the Attorney General, Virginia Power, the Potomac Edison Company d/b/a Allegheny Power (“Potomac Edison”), and the Coalition for Equitable Rates. None of these parties objected to Staff’s request that the scheduled hearing be used as a forum to receive the parties’ comments and testimony on the stipulation. Generally, the parties supported the proposal that the Commission allow parties to file written comments and

² A public hearing was held on February 17, 1998. No public witnesses appeared.

testimony on the stipulation and separate the remaining issues to be addressed in a different proceeding.

In addition, several of the commenters made additional recommendations or requests. For example, the Attorney General stated that it supports the stipulation's proposal that any matters not resolved by the stipulation be considered separately at a later date and requests that the hearing date of July 10, 1998 be retained to hear comments on the stipulation. The Attorney General requests that if the Commission does not adopt the stipulation in its entirety, the Commission notify the stipulating participants as to what aspects it does not intend to adopt and to give the stipulating participants ten days to attempt to reach a modified stipulation that will satisfy the Commission's concerns. Stating that it "strongly" supports the stipulation, Virginia Power also requests that, if the Commission does not approve all aspects of the stipulation, the Commission notify all of the stipulating participants and give them an opportunity to address the Commission's concerns through a modification of the stipulation. Further, the Company requests that, if no agreement is reached on such a modification, the stipulating participants be allowed to withdraw the stipulation and request a hearing.

SELC requests that the Commission allow parties to file written comments on the stipulation on or before July 6, 1998, and that all parties be given the opportunity to address orally the Commission at the hearing on these issues. VIPP requests that all parties that have not yet filed rebuttal testimony be permitted to do so within one week and that, in addition to filing written comments, all parties be given an opportunity at the hearing to present live surrebuttal testimony and conduct cross examination of prefiled testimony, if any, relating to the stipulation. VIPP suggests that remaining issues related

to stranded costs be considered in the proceeding established by Commission to investigate electric utility restructuring in Case No. PUE980138.³ Consultants request that the Commission receive and consider evidence concerning the development of rate schedules that will implement the stipulation.⁴

NOW THE COMMISSION, upon consideration of the comments filed in response to the June 8 Order is of the opinion and finds that it is in the public interest to provide the Staff and parties an opportunity to comment on the stipulation and to continue the hearing from July 10, 1998, to July 21, 1998, at which time the stipulation and related matters will be considered.

Any interested party and the Staff may file written comments and/or testimony on any aspect of the stipulation by July 2, 1998. We ask the parties to address, at a minimum, the following issues: (i) whether the stipulation should be approved, with support for the party's position; (ii) whether the stipulation should be modified, amended or rejected and, if so, how and why; (iii) if approved, what specific rates should be approved to implement the proposed stipulation; and (iv) identification of issues remaining in this case. With respect to item (iv), we ask the parties to identify the issues not resolved by the stipulation and state whether these issues should be considered in another existing docket or in a new docket. Staff and any party may file a reply to any comments or testimony filed on July 2, 1998, and should do so on or before July 13, 1998.

³ See Order Establishing Investigation, Document Control No. 980320379, Case No. PUE980138 (Mar. 20, 1998).

⁴ Potomac Edison and the Coalition for Equitable Rates filed comments addressing specific aspects of the stipulation. In this Order we are providing parties an opportunity to file comments or testimony addressing the merits of the stipulation, as discussed herein.

As stated, the hearing will be continued and rescheduled for July 21, 1998. The purpose of the July 21, 1998 hearing will be (i) to receive evidence and comments on the stipulation and (ii) to identify issues not resolved by the stipulation and determine how such issues should be handled if the stipulation is approved as presented or is modified. We will not receive evidence or entertain cross examination on issues that are not proposed to be resolved by the stipulation.

Any party that wishes to participate at the July 21, 1998 hearing may do so if the party provides notice of such intent with copies being provided to all other parties and Staff by July 16, 1998. Such notice shall (i) provide a brief description of the issues the party intends to address; (ii) identify witnesses who may be presented, provided each witness's testimony has been prefiled on or before July 13, 1998;⁵ (iii) identify each witness the party intends to cross examine, the portion of each witness's prefiled testimony it intends to address and how the testimony is related to issues proposed to be resolved by the stipulation.

It is the Commission's current intention to admit to record all comments and testimony that have been filed to this point in this proceeding unless there is a valid objection. If a witness has not been identified in a notice filed by July 16, 1998, his or her presence will not be required.

IT IS ORDERED that:

⁵ Testimony in response to matters raised for the first time in testimony or comments filed on July 13, 1998, may be presented at the hearing ore tenus, but the notice to be filed on July 16, 1998, shall identify the witness to be presented and the issues to be addressed.

(1) Comments or testimony on the stipulation and comments on issues not proposed to be resolved by the stipulation, as requested above, shall be filed by July 2, 1998. Copies of such comments and testimony shall be served on all parties and Staff.

(2) Replies to comments and testimony filed on July 2, 1998, shall be filed by July 13, 1998. Copies of such replies shall be served on all parties and Staff.

(3) Any party that wishes to participate at the hearing shall file notice of such intent and serve a copy on the parties and Staff by July 16, 1998. Such notice shall provide a brief description of the issues the party intends to address and the identity of any witnesses that will be presented or cross examined at the hearing. Where the party proposes to cross examine a witness, the notice shall identify the portion of the prefiled testimony the party intends to address, and how it is related to the issues proposed to be resolved by the stipulation.

(4) The hearing date for this matter is continued from July 10, 1998, to July 21, 1998 at 10:15 a.m.